



Appeal Decision

Site visit made on 4 December 2024

by **E Griffin LLB Hons**

an Inspector appointed by the Secretary of State

Decision date: 17 April 2025

Appeal Ref: APP/N1730/C/24/3343755

Land North of Winchfield Court, Pale Lane, Winchfield, Hook RG27 8SP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr Michael Spencer against an enforcement notice issued by Hart District Council.
- The notice was issued on 19 March 2024.
- The breach of planning control as alleged in the notice is Without planning permission:
 - I. Installation of a fence and gates which exceed one metre in height adjacent to the highway
 - II. The formation of an access from a classified highway.
 - III. Engineering work comprising culverting/bridge works within the drainage ditch fronting the site.
 - IV. The formation of a track and area of hardstanding (in the approximate location shown hatched in blue on the attached plan) accessed from the unauthorised access.
 - V. External cladding of the former sewage pumping station building.
 - VI. Installation of a flue to the former sewage pumping station building.
 - VII. Erection of an unauthorised lean-to to the rear elevation of the former sewage pumping station building
 - VIII. Erection of an unauthorised extension to the side elevation of the former sewage pumping station building
 - IX. The laying of a concrete hard standing beneath the lean-to to the rear of the former sewage pumping station building and the extension to the side elevation of the former sewage pumping station building.
- The requirements of the notice are
 - I. Remove the fence and gates adjacent to the highway
 - II. Remove the engineering works from the drainage ditch fronting the site comprising culverting/bridge works that provide access to the site
 - III. Remove the unauthorised track and area of hardstanding (shown in the approximate location hatched in blue on the attached plan) and all resulting materials from the land
 - IV. Reinstatement of the land to its former condition by levelling the land to its approximate former level.
 - V. Remove the unauthorised cladding from the exterior of the former sewage pumping station building
 - VI. Remove the unauthorised flue from the former sewage pumping station building.
 - VII. Demolish and remove the unauthorised lean-to to the rear elevation of the former sewage pumping station building
 - VIII. Demolish and remove the side extension from the former sewage pumping station building.
 - IX. Remove the concrete hardstanding beneath the lean-to to the rear of the former sewage pumping station building and the extension to the side elevation of the former sewage pumping station building.
 - X. Demolish and remove the shed and surrounding fencing shown in the approximate location marked by the blue X on the attached plan.
 - XI. Remove all materials arising from compliance with steps I-II and V-X from the land to an authorised place of disposal
- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f), (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Decision

1. It is directed that the enforcement notice is varied by adding the words 'OR reduce the fence and gates in height so that they do not exceed 1 metre in height above ground level' to the existing wording of the first requirement.
2. Subject to the variation, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

3. Since the appeal was lodged, the National Planning Policy Framework (the Framework) has been revised¹. However, the revisions have not raised any new matters which are determinative of the appeal.

The appeal under ground (a) and the deemed planning application (the DPA)

Main Issues

4. The main issues are (i) whether the development is appropriate development in a countryside location (ii) the effect of the development upon the character and appearance of the area and (iii) the effect of the development on biodiversity

Reasons

The development plan

5. The development plan for the area includes the Hart Local Plan (adopted 2020) (HLP), saved policies in the Hart District Local Plan (adopted 2002) (HDLP) and the Winchfield Neighbourhood Plan 2022-2037(adopted 2024) (the WNP).
6. The enforcement notice refers to a number of policies namely Policies SD1, SS1, NBE1,NBE2, NBE9 of the HLP, Policy GEN1 of the HDLP and Policy NE1 of the WNP. The Framework is a material consideration.
7. Policy SD1 of the HLP relates to the presumption in favour of sustainable development contained in the Framework and sets out that planning applications that accord with the development plan and where relevant Neighbourhood Plans will be approved unless material considerations indicate otherwise.
8. Policy SS1 of the HLP is of less relevance to the development than other policies referred to as it relates to spatial strategy and distribution of growth. Policy NBE1 of the HLP states that development within the countryside will only be supported where it falls within one of the fourteen listed exceptions. Nevertheless the criteria cover various matters which would allow development outside of settlements. The supporting text refers to the importance of recognising the intrinsic character and beauty of the countryside which is referred to in Paragraph 187 (b) of the Framework. Any policy which sets out restrictions is not necessarily inconsistent with the Framework as the Framework does not set out every instance of where development is acceptable.
9. Policy NBE1 also recognises that some development can take place in the countryside which is beneficial to it. Development will be permitted where a

¹ 12 December 2024 and 7 February 2025

countryside location is both necessary and justified. The appellant considers that Policy NBE1 criteria (m) and (i) are most important. However, the appellant is not arguing that the development is of exception quality or truly innovative in design which is limb (m). Criteria (i) relates to replacement or extensions to buildings. The appellant maintains that criteria (i) lacks clarity because 'substantial' is not defined in the context of not permitting substantial extensions. Whilst substantial is not defined, this is a matter of planning judgement. Policy NBE1 is not inconsistent with the Framework and is not out of date.

10. Policy NE1 of the WNP which refers to proposals respecting key characteristics of the landscape character areas identified in the Winchfield Landscape Character Assessment is generally consistent with the Framework.
11. Policy NBE2 of the HLP states that development proposals must respect and wherever possible enhance the special characteristics value and amenity value of the Districts landscapes. The policy then sets out where development proposals will be supported where there is no adverse impact and that includes the visual amenity and scenic quality of the landscape. Paragraph 135 (c) of the Framework refers to development being sympathetic to local character and history including the surrounding built development and landscape setting while not preventing or discouraging innovation or change. The policy does allow for a planning judgment to be made and is not inconsistent with the Framework and is not out of date.
12. Policy NBE9 of the HLP refers to all developments seeking to achieve a high quality design and positively contributing to the overall appearance of the local area. Whilst criteria set out where development will be supported that does not exclude development which achieves the policies aims. It is therefore not inconsistent with the Framework and is not out of date. Policies NBE4 of the HLP and NE6 of the WNP which relates to biodiversity are generally consistent with the Framework.
13. Paragraph 11 of the Framework says that plans and decisions should apply a presumption in favour of sustainable development. Paragraph 11 (d) provides that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
14. In my view, the most relevant policies in this appeal are NBE1, NBE2, NBE9 of the HLP which include matters of character and appearance and design and Policy NBE4 of the HLP which relates to biodiversity. Adopting the holistic approach referred to in the case law provided², I find that the basket of most important policies are not out of date and Paragraph 11(d) is therefore not engaged.
15. Other relevant policies include Policy GEN1 of the HDLP and Policy SD1 of the HLP. Policy GEN1 of the HDLP sets out that proposals for development which accord with other proposals of this plan will be permitted where they meet criteria which includes being in keeping with local character by virtue of matters including scale, design, siting and prominence. The policy wording is broadly consistent with the Framework and the difference between 'in keeping' in the local policy and 'sympathetic' in the Framework is negligible. GEN1 is a saved policy of the HDLP

² Page 38 of the appellants statement

which was adopted some time ago but nevertheless it can still be afforded moderate weight as it is broadly consistent with the Framework.

Location of the Development

16. The appeal site is within a countryside location outside of a settlement. It previously formed part of a larger plot which included the site of the former Winchfield Hospital. Part of the original larger site was redeveloped for housing and is now called Winchfield Court. The developer sold off the remaining undeveloped land in individual parcels or plots and the appellant purchased the appeal site which consisted of 3 parcels of land. Prior to the sale of the individual parcels of land, the wider plot consisted of open land other than the former sewage pumping station building which is on the appeal site and the former mortuary building, which is within the plot located between the appeal site and Winchfield Court.
17. The development consists of fencing and gates along the front boundary, bridge works to provide access to Pale Lane, additions to the former sewage pumping station building including a flue, hardstanding within the appeal site and the erection of a shed with a fence surround.
18. Whilst the allegation relates to operational development only, the parties disagree about the lawful use of the appeal site. The Council has referred to a Section 52 agreement dated the 19 August 1985 which requires 'the written consent of the Council for use other than as open space' of the remaining land after the Winchfield Court development took place which includes the appeal site. The Council therefore describes the appeal site as 'open space' with a lawful use as agriculture. The appellant refers to amenity use. Whilst the parties disagree as to what the lawful use of the appeal site is, it is clear that until the appeal development took place, the character of the site was typical of its countryside location with limited development other than the modest sewage building.
19. Policy NBE1 sets out criteria where development located in the countryside can take place. Policy NBE1 (i) refers to permitting an extension to an existing building provided that the proposal does not require substantial rebuilding, extension or alteration. The parties disagree as to the percentage increase in the size of the original pumping station building. Nevertheless, the former sewage building has undergone significant changes which includes the addition of cladding, a flue, the lean to addition and the shed element with hardstanding as floors. I consider that the extent of the works as compared with the original building are substantial. The appellant has not indicated that any other elements of the development fall within Policy NBE1.
20. The supporting text for Policy NBE1 (i) refers to the size and design of any extension respecting the existing building and not result in the property becoming more visually intrusive in the countryside and the development does not achieve either of those aims. The development does not fall within the policy exception relied upon by the appellant. The exceptions seek to ensure that inappropriate types of development will not be permitted to protect the character of the countryside whilst accepting that some development can take place which is beneficial to the countryside.
21. For the reasons given, the development is not located in an appropriate location. It is in conflict with Policy NBE1 of the HLP which aims to ensure, amongst other

things, that there are good reasons to site new development in the countryside to protect its intrinsic character and beauty

Character and Appearance

22. Photographs provided, including aerial photographs, show that prior to the appeal development taking place, the appeal site has the verdant characteristic features found in the countryside of grass, extensive tree coverage and hedgerows that are still present in the adjacent plots and the surrounding fields. Third parties describe the appeal site as previously consisting of a natural green corridor which provided a habitat for wildlife including deer and foxes. The former sewage pumping station building was largely hidden from view due to the extent of the vegetation both along the front boundary of the appeal site and within the site itself. There is no evidence that the appeal site had any formal access from Pale Lane, which is a classified road, prior to the appeal development. Third parties refer to the only access to the various plots being through the adjoining plot which houses the former mortuary building for the hospital.

Fencing and gates and bridge works

23. The appellant has erected a new wooden boundary fence with a pair of five bar wooden gates along the front of the appeal site. Other boundary treatments along this part of Pale Lane are largely in keeping with the countryside location. To the centre, the gates are of a more traditional style but appear as a mismatch with the solid fencing. The appeal site front boundary is also wider than the neighbouring plots which makes the length of the solid wooden fencing with gates particularly incongruous. The design and scale of the means of enclosure is out of keeping in this countryside location where built development is limited. Views of the fencing and gate are particularly prominent for passersby and road users of Pale Lane. Those views are in contrast to the frontages of the plots either side of the appeal site which retain their rural character.
24. The Landscape Character Assessment refers to the distinguishing features of Winchfield as a moderately enclosed landscape except for the area to the east of Winchfield which has a denuded and exposed character. However, given the countryside location, fences as enclosures where they exist are largely associated with residential development. Hedgerows and mature vegetation are still the prevalent means of enclosure along Pale Lane.
25. The appellant has provided examples of fencing which include fencing at Winchfield Court which is a residential development as well as other residential locations. However, the appeal site is open land and does not share any characteristics with Winchfield Court. The fencing at the residential property opposite the development is not comparable as it is viewed in the context of mature trees and vegetation both in front of and behind the fence. The boundary treatment does not benefit from permitted development rights due to its height and permitted development rights are not retrospective.
26. In front of the gates, works have been carried out over a drainage ditch to provide access into the site. The appearance of the works is unsightly and the design lacks cohesion and is not in keeping or sympathetic with the surrounding land. In contrast, the adjacent plots retain their grass verges with mature trees and verdant character. Whilst the appellant may be responsible for the ditch, that responsibility does not extend to carrying out works which require planning permission.

27. For the reasons given, I conclude that these elements do harm the character and appearance of the area. It is therefore contrary to Policy NBE2 of the HLP which, amongst other things, states that development must respect and wherever possible enhance the special characteristics, value or visual amenity of the District's landscapes. It is contrary to Policy NBE1 of the HDLP and Policy GEN1 of the HDLP which, amongst other things, states that development will only be supported which is in keeping with the local character by virtue of their scale, design, massing, height, prominence, materials, layout, landscaping, and siting. It is also contrary to Policy NE1 of the WNP which has similar aims and refers to development be designed to be accommodated without having an unacceptable impact.

Hardstanding and Access

28. The hardstanding is extensive within the appeal site and consists of an access within the appeal site which then extends out roughly in a square shape to allow access to the parking areas to the rear and side of the appeal site as well as to the shed surrounded by fencing and the extended building. The Council refers to 8 lorries of materials being imported although the appellant refers to 2 or 3 tonnes of topsoil. Photographs provided by 3rd parties show lorries depositing materials at the appeal site. Whilst amounts are disputed, importation of materials and the addition of a surface material has occurred to create the hardstanding where none previously existed.
29. The hardstanding provide an austere grey expanse which dominates views of the appeal site from Pale Lane and surrounding land. There are no other examples of similar hardstanding in the vicinity of the development. Individual dwellings with their own accesses are not comparable to the appeal site in terms of location or size. Whilst areas of hardstanding have been identified on a map, I have no details of the extent of those areas. The Council indicates that the examples provided are driveways and parking areas of residential houses and residential development at Winchfield Court or business premises which are not comparable to the appeal site.
30. The presence of accesses and tracks which serve residential properties is also not comparable with the track and access at the appeal site particularly when no explanation is provided as to why such development is needed to serve what was an undeveloped site apart from the original sewerage building. The appellant indicates that the previous means of access is not practicable and he will have no access to his land. However, no explanation is provided as to what activities are taking place at the appeal site to require extensive hardstanding and a new access. The absence of any highway objection to the access is a matter of neutral weight.
31. I do find that these elements of the development do harm the character and appearance of the area. They are contrary to Policy NBE2 of the HLP which, amongst other things, states that development must respect and wherever possible enhance the special characteristics, value or visual amenity of the District's landscapes. It is contrary to Policy NBE1 of the HDLP and Policy GEN1 of the HDLP which, amongst other things, states that development will be supported which is in keeping with the local character by virtue of their scale, design, massing, height, prominence, materials, layout, landscaping, and siting. It is also contrary to Policy NE1 of the WNP which has similar aims and refers to

development being accommodated in the existing landscape without having an unacceptable impact.

The Building and Shed with Surround

32. The original building was a square shape with brick walls and a green panelled feature design around the top which was not visually prominent due to its location towards the middle of the appeal site surrounded by vegetation. The presence of hedges and trees on the appeal site boundaries including to the road also provided natural screening.
33. Works carried out to the former pumping station building, include external cladding, installation of a flue, extension to the side elevation, erection of a lean-to and the laying of hardstanding beneath the lean to and extension. The additions have altered the original character of the building. The additions include a lean-to at the rear of the building which is open at one side with wooden railings. The extension to the side is described by the Council as a prefabricated garden shed which has been bolted onto the existing building. The use of cladding is also out of keeping with the original style of the building.
34. The design of the extended building is visually confusing. The addition of the open lean to and the shed element make it difficult to know where the front of the building is located. The lean -to and the shed elements are of different designs with the lean-to having a flat roof whilst the shed element has a pitched roof. The shed has a double door to one side and a smaller single door to a separate element which sits between the shed and the lean- to. At roof level, the new elements clash with the visible top layers of brick on the original building. The domestic flue with the cladding on the side elevation are features which are not in keeping with the original building or its countryside location with no residential use.
35. The building with its alterations and additions is now an incongruous prominent feature within the appeal site with a mismatch of materials which are not in keeping or sympathetic to the original building. The removal of surrounding vegetation and the loss of the hedgerow along the front boundary result in the opening up of views into the appeal site resulting in the building being visually prominent in a countryside location where there is limited development.
36. The shed has some similarities with a domestic garden shed and the addition of surrounding fencing within the appeal site is also visually confusing. Whilst the appellant states that sheds are common place in residential gardens, the appeal site is not a residential garden but open land within the countryside.
37. Parts of the development are unlikely to be visible from the public footpath to the south and southwest of the site. Nevertheless, the development is particularly prominent from Pale Lane and surrounding land. Whilst the Council refers to the pumping station previously harmonising with Winchfield Court, it is unlikely that there would have been views of the pumping station outside of the appeal site. Equally there are not views of the altered pumping station building from all of the appeal site boundaries. Third parties including residents of Winchfield Court refer to the significant changes in views from Winchfield Court looking towards the development site and the changes in the character of the land that have occurred. The development fails to harmonise with the surrounding countryside due to its harsh urban appearance.

38. No reference is however made as to the why the shed and additions to the original building including installing a wood burning stove with flue are required. Keeping the appeal site tidy or needing a warm place to have a cup of tea does not justify the extent of work carried out at the appeal site.
39. Whilst the appellant refers to improving the appearance of the appeal site by removing waste materials, that work could have been undertaken without laying extensive hardstanding or extending the existing building. The land was previously part of a natural green corridor with mature vegetation which encouraged wildlife with a modest building towards the centre. The appeal site now has a very different urbanised appearance with the hardstanding and the altered appearance of the enlarged building.
40. The appellant proposes an appropriately worded landscaping conditions to overcome any finding of harm. However, in view of the extent and nature of the development it is not clear how landscaping can overcome harm as any effective landscaping is likely to take years to mature.
41. I do find that these elements of the development do harm the character and appearance of the area. They are contrary to Policy NBE2 of the HLP which, amongst other things, states that development must respect and wherever possible enhance the special characteristics, value or visual amenity of the District's landscapes. It is contrary to Policy NBE1 of the HDLP and Policy GEN1 of the HDLP which, amongst other things, states that development will be supported which is in keeping with the local character by virtue of their scale, design, massing, height, prominence, materials, layout, landscaping, and siting. They are also contrary to Policy NBE9 of the HLP, which amongst other things, refers to achieving high quality design as well as Section 12 of the Framework which refers to good design. It is also contrary to Policy NE1 of the WNP which has similar aims and refers to development being designed without having an unacceptable impact.

Other Considerations

42. The appellant considers that the following matters are benefits arising from the development; the status of the land as Previously Developed Land (PDL), the improvements to the appearance of the appeal site and policy support. I have previously addressed the issues of the improvements to the appeal site and the policy position.
43. The appellant considers that the development represents an improvement to Previously Development Land (PDL) which should be given substantial weight in determining the appeal. The term 'PDL' is defined in the glossary to the Framework as 'land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed).'
44. The appellant relies upon the Bell Cornwell report which was commissioned by Winchfield Court residents in September 2017. Whilst the report divides the whole of the land that was sold off into three areas, the photograph of what is described as the sewage building is the mortuary building which is located towards the front of Plot 1. The report also refers to the difficulty of identifying the curtilage of any buildings on site due to the passage of time as 'much of the site has now blended into the landscape.' The report is inconclusive about the status of the whole site

and states ‘ In any event, the assessment of whether land is PDL largely depends on fact and degree to be interpreted by the decision maker.’

45. In 2019, an Inspector determined appeals³ which related to housing developments for an area of land described as land of approximately 1.06 ha to the north of Winchfield Court which included the mortuary building and referred to the remains of the sewage treatment plant. The Inspector found that the site fell outside the definition of PDL. The appellant in the current case has not indicated if he considers all or part of the appeal site to be PDL or how any curtilage is defined when the site was previously grassland and vegetation. Based upon the information before me, the appeal site is not PDL and the works carried out to the building and at the appeal site are not visual improvements for the reasons set out above.

Conclusion on character and appearance

46. It is the case that the development is severable and that it would be possible to grant planning permission for parts of the matters alleged. However, for the reasons previously stated, I do not consider that it is appropriate to grant planning permission for any elements of the development in this open countryside location. For the reasons given, I conclude that all of the development does harm the character and appearance of the area for the policy reasons stated above.

Biodiversity

47. The reasons for issuing the notice state that the clearance of vegetation and trees to facilitate the hardstanding has negatively affected biodiversity. The appellant states that the Council has not indicated if the issue is that harm has occurred to biodiversity and/or whether a biodiversity net gain (BNG) cannot be achieved. However, the reason for issuing the notice clearly relates to the clearance that has taken place and the Council has made no reference to BNG or suggested a BNG condition.
48. The appeal decision⁴ that the Council relies upon relates to a proposal for development on the adjoining plot which contains the former mortuary building. The decision refers to potential for bats in the building and common reptiles in the overgrown grassland and states that in the absence of further surveys, it was not possible to conclude that the proposal would not be harmful to reptiles.
49. Whilst each decision has to be assessed on its own merits, the appeal site was of a similar appearance to the adjacent site prior to the development taking place and there is a reasonable likelihood that it provided habitats for protected species. Whilst the appellant has suggested a condition for BNG, no wording has been provided and there is no explanation as to how a condition would work in the context of retrospective development with no baseline assessment.
50. In the absence of any evidence to the contrary, the extent and nature of the works has not conserved or enhanced biodiversity and the development is therefore contrary to Policy NBE4 of the HLP and Policy NE6 of the WNP.

³ APP/ N1730/W/18/3210487 and APP/N1730/W/18/3210488

⁴ APP/N1730/W/23/3316106

Temporary Planning Permission

51. The appellant has also requested a temporary planning permission for one year and within that year, the appellant states he would design amendments to 'lower any impact.' Whilst the harm arising from a temporary planning permission for one year would be less than the harm arising from a permanent planning permission, there would nevertheless still be an unacceptable level of harm arising from the urbanisation of land in a countryside location.
52. In the absence of any further information about proposed amendments within this appeal, it would also not be appropriate to grant a temporary planning permission so that amendments could be made. The harm would be ongoing for a further period and there is no certainty that an alternative proposal would be acceptable in planning terms.

Other Matters

53. The appellant considers that the Council has treated him unfairly in the past and refers to notices that were withdrawn and an unsuccessful prosecution for felling a tree. However, my remit is limited to the determination of the appeal before me.
54. I note that the appellant has health issues and is worried about his livelihood and future but it is not clear how the appeal site provides a livelihood when no further details are supplied.

Planning balance and conclusion on ground (a)

55. I have found that the development is not located in an appropriate location. Furthermore, it does harm the character and appearance of the area. I have also found that the development does not conserve or enhance biodiversity. The development is therefore in conflict with the development plan taken as a whole and planning permission should be refused unless material considerations indicate otherwise. The other considerations raised by the appellant in relation to both a permanent and a temporary planning permission do not outweigh the harm that I have found. Accordingly, planning permission should be refused for the application deemed to have been made and the appeal on ground (a) should not succeed.

An appeal under ground (f)

56. Section 174(2)(f) of the Act states that an appeal may be made on the ground that the steps required by the notice to be taken, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
57. Nine of the eleven requirements require removal or demolition of the matters alleged in the notice. The purpose of the notice is therefore to remedy the breach of planning control. The appellant considers that the third requirement and fourth requirement are excessive.
58. The third requirement states '*Remove the unauthorised track and area of hardstanding and all resulting materials from the land.*' The appellant refers to this requirement as being excessive as requiring the removal of the track means he would have to access the site over adjoining sites. For the reasons set out I have concluded under ground (a) that planning permission should not be granted for the

track and the hardstanding. the notice which is to remedy the breach. The removal of materials arising as a result of carrying out requirements is not excessive as removal of such materials forms part of restoration of the land.

59. The fourth requirement states '*Reinstate the land to its former condition by levelling the land to its approximate former level.*' Land levels have therefore been altered. The wording does not require waste materials that were removed to be returned to the appeal site. It requires the land to be reinstated to the level it was prior to the unauthorised works taking place
60. Section 173(4)(a) of the Act refers to remedying the breach 'by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place.' The requirement specifically falls within Section 173(4) (a) of the Act. Requirements three and four are not excessive as the purpose of the notice is to remedy the breach.
61. The appellant has referred to permitted development rights as part of ground (a) Whilst permitted development rights are not retrospective, in the event of the fence and gates being removed the appellant could reinstate a fence and gates up to 1 metre in height. The original notice that was withdrawn did include a requirement to either remove or reduce the fence and gates. Reinstating a fence and gates up to 1 metre is likely to occur in order to enclose the appeal site if the existing fence and gates are removed. Reducing the height of the enclosure is therefore an obvious alternative to demolition and a realistic fall-back position. I will therefore vary the first requirement by adding the words 'OR reduce the fence and gates to 1 metre in height'. The appeal under ground (f) therefore succeeds to that extent.

The appeal under ground (g)

62. This ground of appeal relates to the period for compliance which is 3 months. The appellant requests a period of 6 months to carry out all of the requirements and find an alternative location for his business. I have no details of what type of business the appellant operates from the appeal site. I therefore have no information as to what type of site or what facilities he requires. I note the personal circumstances of the appellant but have to balance that with the public interest in achieving compliance.
63. No details are provided of why the requirements which largely consist of the removal of works cannot be achieved in 3 months. On balance, the period for compliance of 3 months is reasonable. The appeal under ground (g) fails.

Conclusion

64. For the reasons given above, I conclude that the appeal should not succeed. I shall vary and uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

E Griffin

INSPECTOR